Transfer Pricing in Maldives

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The direct taxation system of the Maldives has been introduced for only a decade and a central tax administration authority - the Maldives Inland Revenue Authority (MIRA) was established in 2010, making Maldives completely new to the taxation practices compared to other well-established tax administrations around the world.

Over the decade, the tax system of Maldives has undergone many changes and developments over the years adopting the latest updates and trends of international taxes from all around the world including the general anti-avoidance practices and transfer pricing guidelines.

Transfer Pricing under the Business Profit Tax (BPT) regime

Under the BPT regime of Maldives effective from 2011 to 2019, transfer pricing and anti-avoidance were covered to a certain extent with many limitations and gray areas including as follows:

- The scope of “related party” or “associates” defined within the BPT Act was limited only to the “control” factor and “relatives”.
- No requirement and guidelines to prepare and maintain the transfer pricing documentation under the BPT Act or regulation exposing the businesses to risk of transfer pricing and profit shifting.

Transfer Pricing under the Income Tax (ICT) regime

On 3rd November 2017, Maldives joined OECD’s Inclusive Framework of Base Erosion and Profit Shifting (BEPS) and the Income Tax Act of Maldives was drafted to implement the action standards including the transfer pricing guidance.

Effective from 1st January 2020, the Income Tax Act of Maldives was put into effect repealing the BPT Act. Pursuant to the introduction of the Income Tax Act, **the Transfer Pricing Regulation, the Transfer Pricing Documentation (TPD) Guide** and **Arm’s length Guide** were published in line with the OECD’s Transfer Pricing Guidelines.

The following sections of the Income Tax Act cover the implementation of transfer pricing guidelines in the Maldives:

- **Section 67 - Arrangements or transactions between associates**
  The application of the arm’s length terms to the transactions between associated parties and the extent of adjustments undertaken by MIRA in case the arm’s length principle was not applied to the controlled transactions.

- **Section 68 - Transfer pricing documentation**
  Mandates the preparation and maintenance of TPD in respect of transactions and arrangements entered into between associates and outlines the exemptions from TPD on an entity level and transactions level.

  In the Maldives, every person carrying out controlled transactions with associated parties except Small and Medium Enterprises (SMEs) are required to maintain the full set of the three-tier TPD mandated by OECD. Unlike, many countries which have implemented OECD transfer pricing guidelines, Maldives does not allow partial sets of TPD to be prepared and maintained based on the income threshold of the business.

- **Section 70 - Controlled foreign entities**
  Outlines the guidelines for the taxation of a controlled foreign entity which is defined as a company, partnership, trust or other entity that is not a resident of the Maldives and is controlled by 5 or fewer residents of the Maldives.

- **Section 79 (ss) - Definitions of "Associates"**
  Defined as each of two persons where one person:
  (1) controls, or is controlled by, the other, or both persons are controlled by the same person or persons; or
  (2) is a relative of the other person; or
  (3) is a partnership and the other person is a partner in that partnership; or
  (4) is a partner in a partnership and the other person is a partner in the same partnership; or
  (5) is a trust and the other person is a beneficiary of that trust; or
  (6) is a trust and the other person is a settlor of the trust.

- **Section 79 (oo) - Definitions of "Relative"**
  Relative of a person means:
  (1) the person's spouse;
  (2) the person's child, parent, grandparent or sibling;
  (3) the spouse of a person referred to in subsection 79 (oo)(2).

- **Section 79 (r) - Definitions of "Arm's length terms"**
  Defined as the terms on which a transaction or an arrangement would have been made, or might reasonably be expected to have been made, if it had been made between persons that are not associates and in comparable circumstances.

  MIRA recommends that taxpayers adopt the following three-step approach to apply the arm's length principle in their controlled transactions as per the arm's length guide:
  Step 1 - Conduct comparability analysis
  Step 2 - Identify the most appropriate transfer pricing method and tested party
  Step 3 - Determine the arm's length results

Transfer Pricing Documentation (TPD) requirements in Maldives

The Transfer Pricing Regulation and TPD Guide published by MIRA requires the following information to be incorporated in the TPD:

Master File
1. Organizational Structure
2. Group's business information
3. Group's intangibles
4. Group's Intercompany Financing Activities:
5. Group's Financial and Tax Position

Local File
1. Information on taxpayer
2. Details of controlled transaction
3. Information on Transfer Pricing Analysis

Country-by-Country Report (CbCR)
The CbCR is to be prepared as per the CbCR template provided by OECD including:
1. Table 1: provides an overview of the allocation of income, taxes and business activities by tax jurisdiction;
2. Table 2: lists out all the constituent entities of the MNE Group included in each aggregation per tax jurisdiction; and
3. Table 3: covers other additional information or explanation that is considered necessary or that would facilitate the understanding of the compulsory information provided in the CbCR.

Schedule Four of the Income Tax Return – Reporting of International Transactions with Associates

- The Schedule Four of the Income Tax is a specific TPD required in the Maldives which is incorporated in the income tax return of the Maldives.
- Taxpayers reaching the following threshold must complete the Schedule Four of the Income Tax Return for the tax year:
    1. Annual income of more than MVR 20 Million
    2. Carrying out international (cross-border) transactions with associated parties

TPD Requirements and timing of submission in the Maldives			
TPD	**Responsible person to comply**	**The expected time which MIRA may request the TPD**	**Submission deadline**
Local File	Taxpayers carrying out controlled transactions with associates and not exempt from TPD	Any time after filing the tax return, typically during an audit	Within 30 days from a request by MIRA
Master File	Taxpayers carrying out controlled transactions with associates and not exempt from TPD	Any time after filing the tax return, typically during an audit	Within 30 days from a request by MIRA
Country-by-Country Report (CbCR)	Ultimate parent entity of Group which is tax resident in Maldives	Required to be filed 12 months after the last date of reporting of the fiscal year	12 months after the last day of the Reporting Fiscal Year of the MNE group
Schedule Four	Taxpayers reaching the prescribed threshold to fill the schedule of the income	Required to be filed with the annual tax return – 30th June of the following year	On or before 30th June of the following year

Exemptions from the preparation of TPD

Entity level exemptions:

- Persons categorized as Micro, Small and Medium Enterprises (SMEs) under the Law on Small and Medium Enterprises (Law number 6/2013) of Maldives during the year under consideration and past 2 years.

Transaction level exemptions:

- Domestic transactions (except loan transactions) with a related party who are undertaking business in the Maldives and such transaction is subject to tax at the same rate or is exempt from tax for both parties.
- Domestic loan transactions with a related party doing business in the Maldives, provided that the lender is not in the business of borrowing and lending.
- Domestic Loan transactions with a related party, that do not exceed MVR 15 Millions and which has applied indicative margin as published by MIRA.
- Routine support services provided only to entities within the group and a mark-up of 5% is applied.
- Value of **all other** inter-company transactions (i.e. transactions other than those that are eligible for transaction-specific exemption) does not exceed MVR 5 Millions.

Recent Developments

- MIRA is requesting for the TPD of companies who are required to prepare and maintain the TPD during the tax audits being carried out for the year 2021.
- Many awareness and training programs with respect to transfer pricing are being organized by MIRA and other institutions.
- Internal trainings held within MIRA to train employees on enforcing the transfer pricing compliance mandated under the Income Tax Act and Transfer Pricing Regulation.

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